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FM AMEMBASSY KUALA LUMPUR

TO RUEHC/SECSTATE WASHDC IMMEDIATE 0374

INFO RUCNASE/ASEAN MEMBER COLLECTIVE IMMEDIATE

RUEHBY/AMEMBASSY CANBERRA IMMEDIATE 2433

RUEHLM/AMEMBASSY COLOMBO IMMEDIATE 0202

RUEHLO/AMEMBASSY LONDON IMMEDIATE 0365

RUEHNE/AMEMBASSY NEW DELHI IMMEDIATE 0737

RUEHCG/AMCONSUL CHENNAI IMMEDIATE 0127

RHEHNSC/NSC WASHDC IMMEDIATE

RHHMUNA/USCINCPAC HONOLULU HI IMMEDIATE

C O N F I D E N T I A L SECTION 01 OF 03 KUALA LUMPUR 001710

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STATE FOR EAP/MTS AND DRL -- JANE KIM

E.O. 12958: DECL: 12/13/2027

TAGS: PGOV PINS PHUM KDEM ASEC MY

SUBJECT: HINDRAF LEADERS DETAINED UNDER INTERNAL SECURITY ACT

REF: A. KUALA LUMPUR 1663 - LEGAL ACTION AGAINST

PROTESTERS

1B. KUALA LUMPUR 1647 - POLICE BREAK UP PROTEST

1C. KUALA LUMPUR 1646 - ARRESTS AHEAD OF RALLY

Classified By: Classified By: Political Section Chief Mark D. Clark for reasons 1.4 (b and d).

Summary

11. (C) The Malaysian government on December 13 arrested five ethnic Indian leaders of the small NGO HINDRAF using the Internal Security Act (ISA), which provides for detention without trial, and indicated they would be held for two years. Senior Malaysian officials, including Prime Minister Abdullah, accused HINDRAF activists of "carrying out activities that threaten national security." The arrests follow a large November 25 ethnic Indian demonstration in Kuala Lumpur, one in a series of rallies critical of the government over the past several months. A campaign to vilify HINDRAF in the government-dominated mainstream press preceded the arrests. The arrest of HINDRAF leaders represents the first time in Abdullah's four years in power that he has sanctioned use of the ISA in cases that are seemingly political in nature, and appears intended to appeal to Malay voters before the impending national elections. Use of ISA against HINDRAF, however, will provoke a strong reaction among ethnic Indians and other elements of civil society. Post submits suggested press guidance. End Summary.

HINDRAF Leadership arrested under ISA

12. (U) Malaysian police detained five key leaders of the Hindu Rights Action Force (HINDRAF), a small activist NGO that promotes the rights of ethnic Indians, under the Internal Security Act (ISA) in a series of quick arrests on December 13. The ISA allows for detention without trial for renewable periods of two years. The five are P. Uthayakumar, 1M. Manoharan, R. Kenghadharan, V. Ganabatirau and T. Vasanthakumar. HINDRAF organized a street demonstration in Kuala Lumpur on November 25 that involved some 15,000 - 20,000 ethnic Indians and intended to highlight the perceived marginalization of Indians in Malaysia (reflets). Subsequently, the government and government dominated mainstream media repeatedly condemned HINDRAF for inciting

racial tension.

¶13. (C) Deputy Internal Security Minister Mohd. Johari Baharom confirmed the GOM had detained the five HINDRAF leaders under the ISA, according to the official news agency Bernama. Johari noted that those detained "can be held for two years for sedition and also for carrying out activities that threaten national security." Speaking to reporters, Inspector-General of Police (IGP) Musa Hassan also confirmed the arrests said the five men will be detained for two years.

(Comment: The law stipulates that the initial detention period is 60 days, at which time the case is reviewed by the Minister of Internal Security. That Musa Hassan immediately stated the detention would be for two years indicates the government's seriousness in dealing with HINDRAF.) The police did not provide more details on the basis for the December 13 arrests. Law enforcement actions against HINDRAF began on November 23 with the arrest of HINDRAF Chairperson **¶P. Waythamoorthy**, legal adviser P. Uthayakumar and V. Ganabatirau on charges of sedition. A judge initially dismissed the charges without prejudice on a technicality and released the men (ref C). Subsequently, senior Malaysian officials have made statements alleging HINDRAF has links to the Tamil Tigers and the militant India-based group RSS, but offered no evidence to substantiate such claims.

¶14. (C) Prime Minister Abdullah Badawi previously had warned that he would approve use of the ISA if police advised him that it was necessary to do so to protect national security. Authority to detain individuals under the ISA rests solely in the Minister of Internal Security, a position currently held by Prime Minister Abdullah Badawi, and Abdullah has been under pressure from within the ruling United Malays National Organization (UMNO) party to take a tough stand against

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recent protests and invoke the ISA against HINDRAF's leaders (ref A). Several UMNO party officials have told us in recent days that UMNO is capitalizing on the HINDRAF demonstration, HINDRAF challenges to Malay special privileges, and HINDRAF's exaggerated claims, such as "ethnic cleansing," to solidify UMNO's support among ethnic Malays.

¶15. (U) HINDRAF chairman Waythamoorthy is currently out of the country on an international tour to attract overseas support for HINDRAF's cause. After a stop in India, he reportedly has traveled on to the UK. According to his originally announced itinerary, Waythamoorthy next will visit New York and Washington to meet with UN representatives, U.S. officials, lawmakers, and activists.

Section 8 (1) of the ISA

¶16. (U) The ISA, a legacy of colonial era emergency laws, provides the government with expansion powers of detention. Police announced they detained the HINDRAF leaders under ISA Section 8 (1), which states: " If the Minister (of Internal Security) is satisfied that the detention of any person is necessary with a view to preventing him from acting in any manner prejudicial to the security of Malaysia or any part thereof or to the maintenance of essential services therein or to economic life thereof, he may make an order directing that the person be detained for any period not exceeding two years."

Initial Reactions

¶17. (U) Prime Minister Abdullah Badawi told the press on December 13 that HINDRAF was trying to destroy the country. Alluding to Waythamoorthy's efforts to solicit overseas support for HINDRAF, PM Abdullah stated, "This is a betrayal of our country." He noted that Malaysia gave the people the freedom to voice their opinions, adding however, "If this freedom issued in an irresponsible manner, the people will

suffer." Abdullah also asserted that the recent street demonstrations adversely affected various economic sectors, especially the tourism and business sectors. (Note: ISA Section 8 (1) includes protecting essential services and Malaysia economic life (ref para 6). End note).

¶8. (SBU) Several of the arrested HINDRAF leaders are members of the opposition Democratic Action Party (DAP). DAP Secretary-General Lim Guan Eng said his party "unreservedly

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condemns" the detention of the HINDRAF leaders under the ISA.

He urged the government to bring charges against the five individuals in open court and produce evidence before a judge. He declared, "By using the ISA, the government has shown this is a desperate measure to silence dissenting voices. Not by proving allegations made against HINDRAF leaders, but using a draconian law to achieve their political ends against HINDRAF." DAP announced it would file a writ of habeas corpus as early as December 14. HINDRAF has asked its supporters to remain calm and organize nationwide prayers.

Comment

¶9. (C) PM Abdullah has made good on repeated threats to invoke the ISA against those behind recent demonstrations critical of his government. This follows a public campaign to vilify the HINDRAF in the press, made easier by inflammatory statements from HINDRAF leaders. While former Prime Minister Mahathir used the ISA against a number of opponents and critics, the arrests of HINDRAF leaders represents the first time in Abdullah's four years in power that he has sanctioned use of the ISA in cases that are primarily political in nature. PM Abdullah appears to be

acting under a political imperative to demonstrate his toughness following a series of public protests that made Abdullah seem weak and unable to back up his personal admonishments for people not to take to the streets. We hear that UMNO politicians are banking on a calculation that tough action against HINDRAF will play well with its Malay constituents before the impending national elections. Use of ISA against HINDRAF, however, will provoke a strong reaction

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among ethnic Indians and other elements of civil society, such as the outspoken Bar Council, particularly in educated urban areas. Today's use of the ISA has dealt a blow to hopes in some quarters that, following the heavy-handed Mahathir era, PM Abdullah would oversee a period of significant political liberalization.

Proposed Press Guidance

¶10. (U) Post submits the following suggested press guidance:

Q: What's the U.S. reaction to the arrest of five ethnic Indian activists in Malaysia using the Internal Security Act?

A: We have seen press reports to this effect.

We have stressed our view that peaceful expression of political opinions is a fundamental part of a healthy civil society, which in turn is essential to political stability.

The Malaysian authorities are obligated, like any sovereign country's government, to balance the need for public order with the equally important need for robust and free debate of issues important to Malaysian citizens.

It is our hope that the Malaysian government will allow the freest possible debate.

(If asked specifically about ISA)

We hope that the Malaysian government would provide due process and treatment consistent with Malaysian law and international standards.

KEITH